

1 The opportunity for an appeal and adjudicative proceeding before
2 this Board is provided after the wastewater permit is issued or
3 modified.

4 ORDER

5 Respondents' Motions for Dismissal due to lack of jurisdiction
6 are GRANTED. The appeal is DISMISSED.

7 DONE this 2nd day of July, 1991.

8 POLLUTION CONTROL HEARINGS BOARD
9

10 Annette S. McGee
11 ANNETTE S. MCGEE, Presiding

12 Harold S. Zimmerman
13 HAROLD S. ZIMMERMAN, Chairman

14 Judith A. Bendor
15 JUDITH A. BENDOR, Member

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1 Also, on April 19, 1991, respondent Ecology filed a Motion and
2 Memorandum for Dismissal.

3 Appellant/Intervenors Mae Blasdel and CEFWAL filed a Memorandum
4 and documents in opposition on May 1, 1991.

5 The City of Pasco filed a Reply Memorandum on May 3, 1991.

6 Having considered the foregoing, the Board issues this opinion:

7 On October 1, 1990, Ecology approved the City's Engineering
8 Report for its wastewater treatment plant. The plant is required to
9 have a state waste disposal permit under Chapt. 90.48 RCW. The
10 engineering report, final plans and specifications are predicate
11 actions required, before Ecology can approve the permit issuance or
12 modification. At the time of the motion filings, the plans and
13 specifications had not yet been approved.

14 Appellants contend that the Pollution Control Hearings Board has
15 jurisdiction over this appeal. We conclude that the Board does not
16 have jurisdiction.

17 The Board is a quasi-judicial entity, created by statute. RCW
18 43.21B.110 recites this Board's jurisdiction. Appellants contend that
19 this appeal conforms to Subection 110(1)(e) which states:

20 *(e) Any other decision by the department or an air*
21 *authority which pursuant to law must be decided as an*
22 *adjudicative proceeding under chapter 34.05 RCW.*

23 We conclude that Ecology's approval of the engineering report is
24 not an action which requires an adjudicative proceeding. We also
25 conclude that this jurisdiction is not necessarily implied.

BEFORE THE POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

MAE BLASDEL,)	
)	
Appellant,)	PCHB No. 90-211
)	
and)	
)	
CONCERNED EAST FOSTER WELLS)	
AREA LANDOWNERS (CEFWAL),)	
)	
Appellant-Intervenor,)	
)	
v.)	
)	ORDER GRANTING DISMISSAL
STATE OF WASHINGTON, DEPARTMENT)	
OF ECOLOGY and CITY OF PASCO,)	
)	
Respondent.)	

This matter concerns an appeal filed November 13, 1990, contesting the Department of Ecology's (Ecology) approval of an engineering report for the City of Pasco's (City) wastewater treatment plant.

A Pre-Hearing Conference was held on April 9, 1991.

On April 17, 1991, intervention was granted to a group of concerned citizens, who collectively called themselves Concerned East Foster Wells Area Landowners (CEFWAL).

On April 19, 1991, respondent City of Pasco filed a Motion to Dismiss with supporting documents.